

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

August 27, 1998

DIVISION ONE

B117292 C.I.R. Plumbing, Inc. (Not for Publication)
v.
P.E. O'Hair & Co.

The Modified Judgment on Special Verdict entered on October 1, 1997, is modified as follows: (1) by striking the second paragraph on page 6 and substituting in its place this paragraph: "The plaintiff, C.I.R. Plumbing, Inc., is the prevailing party on its causes of action for Breach of Contract and Breach of Warranties, and is, therefore, the prevailing party within the meaning of section 1717 of the Civil Code." (2) by striking the penultimate paragraph on page 6 and substituting in its place this paragraph: "The Court determines that C.I.R. is the prevailing party and has found C.I.R. to be entitled to costs in the amount of \$10,673.29 and attorneys' fees in the amount of \$35,000." (3) by striking the final paragraph on page 6 and substituting in its place this paragraph: "THEREFORE, it is adjudged, ordered, and decreed that plaintiff C.I.R. Plumbing, Inc. have judgment for \$190,000.00 against Defendant P.E. O'Hair & Co., together with costs and fees in the total amount of \$45,673.29. C.I.R. shall not execute against the assets of O'Hair to recover the \$190,000.00, but may so execute to recover the \$45,673.29." As modified, the judgment is affirmed and the cause is remanded to the trial court with directions to enter a revised judgment reflecting these modifications. The parties are to pay their own costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

August 27, 1998-Continued

DIVISION ONE (Continued)

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The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Dunn, J. (Assigned)

B117186 Anne Hood Estrada (Not for Publication)
v.
Stephen C. Levy

The judgment is affirmed. Dr. Levy is entitled to his costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

B114406 The People (Not for Publication)
v.
Alfonso Cortez et al.

The judgments are affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Dunn, J. (Assigned)

DIVISION ONE (Continued)

B120497 Allstate Insurance Company et al. (Not for Publication)

v.
Superior Court, Los Angeles County
(Larry Jacobs et al., r.p.i.)

Let a peremptory writ of mandate issue, commanding the trial court (1) to vacate its order denying Allstate's motion for summary judgment, (2) to issue a new order granting Allstate's motion, and (3) to enter summary judgment in favor of Allstate. Allstate is awarded its costs of these writ proceedings.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Ortega, J.

B121326 Southland Corporation (Not for Publication)

v.
Superior Court, Los Angeles County
(Alfonso Grank Gaines et al., r.p.i.)

Let a peremptory writ of mandate issue directing the trial court (1) to vacate its order denying Southland Corporation's motion for summary judgment, (2) to enter a new order granting the motion, and (3) to enter summary judgment in favor of Southland Corporation. The stay heretofore issued is vacated. Southland Corporation is entitled to its costs of these writ proceedings.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Ortega, J.

DIVISION ONE (Continued)

B119140 Imperial Credit Industries, Inc.
v
National Home Funding

Filed order granting motion to dismiss appeal. Appeal (notice of appeal filed January 23, 1998) dismissed.

B122651 Ray
v.
Los Angeles County

Filed order granting motion to dismiss appeal. Appeal (notice of appeal filed May 15, 1998) dismissed.

B112802 Rafi M. Kahn (Not for Publication)
v.
Reynolds, Kendrick, Stratton, Inc.

The judgment is affirmed. RKS is awarded its costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

B107573 Pamela Howell (Not for Publication)
v.
Association Lien Services et al.

The judgment and post-judgment order are affirmed. ALS, Swedelson, and AuCoin are awarded their costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

DIVISION ONE (Continued)

August 27, 1998-Continued

B115727 Rolanda Steiner et al. (Not for Publication)
v.
Michael Trujillo

The order denying relief is reversed and the cause is remanded to the trial court with directions to grant the motion for relief, vacate the order of dismissal, and set the matter for trial. The parties are to pay their own costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Ortega, J.

B119388 Tutor-Saliba-Perini, J.V. et al. (Not for Publication)
v.
Leroy M. Gire et al.

The order is reversed, and the cause is remanded with directions to the trial court (1) to enter a finding that Gire is entitled to recover the \$50,000 face amount of the bond as damages; (2) to hold a hearing to determine the amount of attorneys' fees and costs to be awarded to Gire in addition to the \$50,000 (§ 996.480, subd. (a)(2)); (3) to determine the date of Gire's original claim to the surety and to calculate the interest due to Gire on the \$50,000 face amount of the bond from that date forward; and (4) to enter a new order reflecting these findings. Gire is awarded his costs of appeal, including those recoverable under section 996.480, subdivision (a)(2), and the trial court shall, on remand, determine this amount when it makes the other findings described in this paragraph.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
 Dunn, J. (Assigned)

DIVISION ONE (Continued)

B115347 Anand Diamond Corporation et al. (Not for Publication)
v.
Underwriters at Lloyds of London Insurers et al.

The judgment is affirmed. Lloyds is awarded its costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Ortega, J.

B109986 Heriberto Zuniga et al. (Not for Publication)
v.
McMahan Furniture Stores

The jury's awards of \$58,000 to Zuniga and \$66,000 to Felix for breach of contract damages are affirmed. In all other respects, the judgment is reversed and the cause is remanded to the trial court with directions (1) to enter a judgment in favor of Zuniga for \$58,000 for breach of contract damages, in favor of Felix for \$66,000 for breach of contract damages, and in favor of McMahan's on all other causes of actions; and (2) to recalculate the post-judgment interest due to Felix and Zuniga, and to enter such amount in the judgment. Plaintiffs' request for sanctions for a frivolous appeal is denied. The parties are to pay their own costs of appeal.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
 Dunn, J. (Assigned)

DIVISION TWO

B083494 St. Hilaire (Not for Publication)
v.
Deyo

The orders denying the request for judgment and for costs are reversed. The trial court is directed to vacate the request for trial de novo and enter judgment on the arbitration award. The order denying sanctions is affirmed. The case is remanded to the trial court for a determination of the amount of costs to which appellant is entitled under Code of Civil Procedure section 114.21. Appellant to recover costs on appeal.

Boren, P.J.

We concur: Fukuto, J.
Zebrowski, J.

B120520 Wells Fargo Bank (Not for Publication)
v.
Baritone

The judgment is reversed. Appellant to recover costs on appeal.

Boren, P.J.

We concur: Fukuto, J.
Zebrowski, J.

DIVISION TWO (Continued)

B112718 Juarez, Herminia (Not for Publication)
 v.
 Juarez, Edward

The judgment is reversed and the matter remanded to the trial court with directions to calculate the parties' respective interests in the LaPuente property, consistent with the views expressed herein. The parties to bear their own costs on appeal.

Boren, P.J.

We concur: Nott, J.
 Zebrowski, J.

B117386 Greenfield (Not for Publication)
 v.
 Hashim

The portion of the judgment which is in favor of Imtiaz Hashim and against Jonathan Greenfield is reversed. The award of costs to Imtiaz Hashim is reversed. In all other respects, the judgment is affirmed. Greenfield is entitled to recover his costs on appeal from Imtiaz Hashim.

Boren, P.J.

We concur: Fukuto, J.
 Nott, J.

DIVISION THREE

B111464 People (Not for Publication)
v.
Love

The judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting that appellant is to pay a \$50 laboratory fee and register as a narcotics offender, and the trial court is also directed to forward a certified copy thereof to the Department of Corrections.

Croskey, J.

We concur: Klein, P.J.
Goodman, J. (Assigned)

B099013 Rapore (Not for Publication)
B105574 v.
Beach

The summary judgment awarded against Rapore and in favor of Beach is affirmed. The post-judgment order awarding attorney's fees to Beach is reversed and the matter is remanded for further proceedings on that issue in a manner consistent with the views expressed herein. Beach shall recover his costs on appeal.

Croskey, J.

We concur: Klein, P.J.
Kitching, J.

August 27, 1998-Continued

DIVISION THREE (Continued)

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The judgment is affirmed.

Croskey, J.

We concur: Klein, P.J.
Goodman, J. (Assigned)

B119639 Keisha S. (Not for Publication)
v.
Los Angeles County, D.C.S.

Orders affirmed.

Aldrich, J.

We concur: Croskey, Acting P.J.
 Goodman, J. (Assigned)

DIVISION FOUR

B113621 People (Not for Publication)
v.
Mack

The judgment is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Cooper (F.M.), J. (Assigned)

August 27, 1998-Continued

DIVISION FOUR (Continued)

B122141 Marquez, Jr. (Not for Publication)

V.

Superior Court, Los Angeles County

Marquez (r.p.i.)

Let a peremptory writ issue commanding the trial court to vacate and set aside its order of April 29, 1998, denying petitioner's motion for reconsideration under section 473, and issue a new order granting the motion and setting aside the previously signed statement of decision, following which the court is to consider the objections and render its decision. Each side is to bear its own costs on this writ proceeding.

Epstein, J.

We concur: Vogel (C.S.), P.J.

Cooper (F.M.), J. (Assigned)

B107635 Ahuja et al. (Not for Publication)

V.

Kohli et al.

The judgment is affirmed.

Epstein, Acting P.J.

We concur: Hastings, J.

Cooper (F.M.), J. (Assigned)

August 27, 1998-Continued

DIVISION FOUR (Continued)

B115731 Fidelity & Deposit (Not for Publication)
Company of Maryland
v.
Charter Oak Fire Insurance Company

The judgment is affirmed. Charter Oak is awarded its costs on appeal.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Cooper (F.M.), J. (Assigned)

DIVISION FIVE

B114439 Peter Kudrave A.I.A. et al. (Not for Publication)
v.
County of Los Angeles

The judgment is affirmed.

Armstrong, J.

I concur: Grignon, J.
I dissent and concur: Turner, P.J. (Opinion)

August 27, 1998-Continued

DIVISION SIX

B113075 People (Not for Publication)
v.
Bolden et al.

The judgment is affirmed.

Coffee, J.

We concur: Stone, P.J.
 Yegan , J.

B115394 People v. Pollak (Not for Publication)

The trial court is ordered to correct the abstract of judgment to reflect 474 days of presentence custody credit rather than 456 days. The court is further ordered to forward the amended abstract of judgment to the Department of Corrections. In all other respects, the judgment is affirmed.

Yegan , J.

We concur: Stone, P.J.
 Gilbert, J.

B117238 State of California (Not for Publication)
v.
California Polytechnic State University Foundation

The judgment is affirmed. Foundation and State shall bear their costs on appeal.

Yegan , J.

We concur: Stone, P.J.
 Gilbert, J.

DIVISION SIX (Continued)

August 27, 1998-Continued

B117827 Gibby (Not for Publication)
 v.
 Green

The judgment is affirmed. Costs are awarded to respondents.

Stone, P.J.

We concur: Gilbert, J.
 Coffee, J.